



**BOARD OF BEHAVIORAL SCIENCES**  
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Approved February 20, 2004

**BOARD OF BEHAVIORAL SCIENCES  
FULL BOARD  
MEETING MINUTES**

**NOVEMBER 13, 2003**

**COURTYARD MARRIOTT  
5555 SHELLMOUND STREET  
EMERYVILLE, CA**

**MEMBERS PRESENT**

Karen Pines, MFT Member, Board Chair  
Mark Burdick, LEP Member, Vice Chair  
Robert Gerst, Public Member  
Catherine Kay, Public Member  
Peter Manoleas, LCSW Member  
Glynis Morrow, Public Member  
Howard Stein, Public Member  
Susan Ulevitch, LCSW Member  
Joseph Breall, Public Member

**MEMBERS ABSENT**

Roberto Quiroz, Public Member  
Jane Nathanson, MFT Member

**STAFF PRESENT**

Sherry Mehl, Executive Officer  
Kristy Schieldge, Legal Counsel  
Anita Scuri, Legal Counsel  
Christy Berger, Examination Analyst  
Kari Frank, Licensing Analyst

**GUEST LIST ON FILE**

**I. FULL BOARD**

**1. Call to Order and Establishment of Quorum**

Ms. Frank called the roll and a quorum was established at approximately 8:30 a.m.

## **1. Closed Session**

Pursuant to Government Code Section 11126I(3), the Board met in closed session to deliberate on disciplinary decisions.

The Board adjourned from closed session at approximately 9:50 a.m.

## **1. CONSUMER SERVICES/CONSUMER PROTECTION COMMITTEE**

### **1. Approval of Minutes**

CATHERINE KAY MOVED, GLYNIS MORROW SECONDED, AND THE BOARD CONCURRED TO APPROVE THE MINUTES OF APRIL 25, 2003.

### **1. Enforcement Statistics**

Mr. Gerst asked Ms. Mehl to comment on accusations processed by the Attorney General's (AG) office. Ms. Mehl indicated that we have received a larger than normal amount of complaints in  $\frac{3}{4}$  so far. This may be a result of the way we now receive complaints. We now can receive complaints over the website and the Department of Consumer Affairs now has an on-line complaint form. This has increased the number of nonjurisdictional complaints.

Ms. Mehl explained the relationship between the use of the AG's office, investigations, and the use of citations. Citation is lesser discipline, typically used when a case does not warrant going to the AG's office.

Mr. Gerst indicated that the citation and fine system could be a much more cost effective tool if used to make sure the behavior is appropriate in the licensed community and that the Board should explore using citation and fine as an alternative method of discipline. Ms. Mehl agreed.

Citations are not published in newsletters, but are public information. Ms. Mehl explained that this was a policy of the previous board. Mr. Gerst, Mr. Stein, and Ms. Kay all expressed that they would like to consider publishing citation and fine information in the future and asked that this policy be brought back to the Committee at the next meeting for possible revisions.

### **1. Discussion Regarding Board Enforcement Activity and Division of Investigation Functions**

Michael Gomez, Chief Deputy for the Division of Investigation (D of I), spoke regarding the impact of the budget cuts to staffing. D of I is the general law enforcement agency for the Department of Consumer Affairs (DCA). D of I employs peace officers and has general authority to investigate all laws administered by DCA.

D of I has suffered a 25% reduction in staff. Due to these cuts, D of I is no longer able to investigate fraud and unlicensed practice. They are relying on the boards to complete a lot of the evaluations internally.

Ms. Kay asked whether the Board was obligated to use D of I. Ms. Mehl stated staff could fulfill some roles of investigating a complaint, except where it puts staff at risk of physical harm. Staff may conduct phone interviews or complete the report portion of an investigation. The Attorney General's office has assisted us in criminal complaints. It has taken training of staff to get them to this level and may take additional training to get to the next level. The downside with the Board staff doing the investigation is if there was a hearing staff

would be called as a witness. It is preferable to go through D of I who uses sworn peace officers. Contracting out is not an option.

When asked by Ms. Kay if there was anything the Board could do support D of I, Mr. Gomez stated that any support by the Board to the legislature would be helpful.

## **1. LICENSING COMMITTEE**

### **1. Approval of April 24, 2003 Minutes**

MARK BURDICK MOVED, CATHERINE KAY SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE MINUTES OF APRIL 24, 2003.

### **1. Review and Possible Action to Set For Hearing Proposed Amendments to Title 16, California Code of Regulations Sections 1887, 1887.2, and 1887.3**

There was discussion regarding the removal of the words “assessment testing” from the proposed language in Section 1887(a). The Committee decided to remove the above language.

CATHERINE KAY MOVED, MARK BURDICK SECONDED, AND THE COMMITTEE CONCURRED TO INITIATE THE REGULATORY PROCESS WITH THIS CHANGE TO 1887(a).

### **1. Discussion Regarding Whether to Permit Continuing Education Credits to be Carried Over Into the Next Renewal Cycle**

Ms. Mehl provided the Committee with a synopsis of the issue. She indicated that Board staff often receives calls, e-mails, and correspondence regarding this issue.

Ms. Ulevitch suggested we look at what the Medical Board and Board of Psychology requires, now that we’ve added courses, to make sure we’re not overloading people.

Ms. Kay would like to have the statutory requirements spelled out to help with the decision.

The Committee asked that this be brought back to the next meeting for further discussion.

## **1. AD HOC DISCIPLINARY GUIDELINES COMMITTEE**

### **1. Approval of August 21, 2003 Minutes**

ROBERT GERST MOVED, PETER MANOLEAS SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE COMMITTEE MINUTES OF AUGUST 21, 2003.

The Committee indicated that they plan to review all of the minimum and maximum recommendations for discipline, determine their appropriateness, and bring back their recommendations to the February meeting. Ms. Kay stated that if other Board members had suggestions or changes to the disciplinary guidelines they should give them to Ms. Mehl or Ms. Schieldge. The Committee then asked Ms. Mehl to schedule a meeting in January so the Committee could meet prior to the February Board meeting.

## **1. EXAMINATION COMMITTEE**

### **1. Discussion Regarding Collection of Race/Ethnicity Data**

Mr. Manoleas suggested that the Board collect information from applicants regarding race/ethnicity. Kristy Schieldge, the Board's Legal Counsel, stated that the Board does not have the statutory authority to collect such data. Ms. Pines asked to have this subject brought back to the February meeting before the full Board. Ms. Mehl agreed to provide some information about validity from the Office of Examination Resources.

## **1. FULL BOARD**

### **1. Presentation from the Office of Examination Resources on the Results of the Clinical Vignettes and Possible Action Regarding the Oral Examinations**

Ms. Mehl introduced Tracy Ferrel from the Office of Examination Resources (OER). Ms. Ferrel provided the Board with an overview of OER and explained that the office is an entity within the Department of Consumer Affairs (DCA) that provides examination related services to DCA boards and bureaus and works with regulatory agencies to establish and maintain quality licensure examinations, including standards for minimum competency for licensure.

Ms. Ferrel explained the intent of the presentation was to assist the Board in making an informed decision about the oral examination component that balances the needs of the profession and the safety and protection of the consumers of California.

Ms. Ferrel went on to explain that the intent of the presentation was not to disqualify the existing body of evidence supporting the validity associated with the current oral examinations.

Ms. Ferrel gave the pros and cons of the written and oral examinations. She concluded her presentation by giving OER's recommendations. Should the Board decide to maintain the oral examination component, OER recommends that we continue to develop, administer, score and monitor the examination as currently implemented in order to retain the strong and defensible body of evidence to support validity. Should the Board decide to replace the oral examination component, OER recommends we continue to monitor written examination performance, develop and monitor a clinical vignette examination to supplement the current written examination, continue to monitor enforcement numbers, continue to monitor and revise laws and regulations to strengthen educational and internship requirements, consider regulatory changes to reduce the number of pass attempts or time in which the written score is valid, and keep the "door open" for revisiting the use of an oral examination if data indicates a measurement change is needed.

Jan Lee Wong, Executive Director of the National Association of Social Workers, stated that the professional association supported the elimination of the oral examination.

Geraldine Esposito, Executive Director of the California Society for Clinical Social Work, stated that the professional association supported retaining the oral examination.

Mary Riemersma, Executive Director of the California Association of Marriage and Family Therapists, stated that the professional association supported retaining the oral examination.

After public comment the Board voted 8-1 to replace the oral examination.

HOWARD STEIN MOVED, MARK BURDICK SECONDED, AND THE BOARD CONCURRED TO REPLACE THE MARRIAGE AND FAMILY THERAPY AND LICENSED CLINICAL SOCIAL WORKER ORAL EXAMINATION REQUIREMENT WITH A WRITTEN CLINICAL VIGNETTE EXAMINATION REQUIREMENT AND TO DIRECT STAFF TO FILE EMERGENCY REGULATIONS AND TO TAKE ANY OTHER STEPS NECESSARY TO IMPLEMENT THIS CHANGE.

The meeting adjourned at approximately 4:30 p.m.



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**BOARD OF BEHAVIORAL SCIENCES  
FULL BOARD  
MEETING MINUTES**

**NOVEMBER 14, 2003**

**COURTYARD MARRIOTT  
5555 SHELLMOUND STREET  
EMERYVILLE, CA**

**MEMBERS PRESENT**

Karen Pines, MFT Member, Board Chair  
Mark Burdick, LEP Member, Vice Chair  
Robert Gerst, Public Member  
Catherine Kay, Public Member  
Peter Manoleas, LCSW Member  
Glynis Morrow, Public Member  
Howard Stein, Public Member  
Susan Ulevitch, LCSW Member  
Joseph Breall, Public Member

**MEMBERS ABSENT**

Roberto Quiroz, Public Member  
Jane Nathanson, MFT Member

**STAFF PRESENT**

Sherry Mehl, Executive Officer  
Kristy Schieldge, Legal Counsel  
Anita Scuri, Legal Counsel  
Christy Berger, Examination Analyst  
Kari Frank, Licensing Analyst

**GUEST LIST ON FILE**

Ms. Frank called the roll and a quorum was established at approximately 8:30 a.m.

**VII. FULL BOARD**

**1. Petition for Reinstatement of License**

The Board cancelled the petitions.

## **2. Approval of August 21, 2003 Minutes**

ROBERT GERST MOVED, MARK BURDICK SECONDED, AND THE COMMITTEE CONCURRED TO APPROVE THE COMMITTEE MINUTES OF AUGUST 21, 2003.

## **3. Chairpersons Report**

Ms. Pines asked Board members to begin thinking about which committees they want to be on next year since new officers will be elected at the February meeting.

## **4. Executive Officer's Report**

### **a. Budget Update**

Ms. Mehl reviewed the materials provided and informed the Board of an anticipated 5% to 20% reduction next year. She then provided an overview of changes with the new administration within the Department of Consumer Affairs (DCA) and other agencies.

### **b. Miscellaneous Matters**

#### **1. Website Statistics**

Ms. Mehl reviewed the statistics and explained that pages are tracked and if a page is not getting many hits it is either revised or removed.

## **5. Report on the Association of Marriage and Family Therapists Regulatory Boards Meeting**

Ms. Mehl reported that she gave an opening presentation and speech on composite boards. Because of the number of licensees and registrants in California, California became the focus. All other states use the national exam. In some states, Marriage and Family Therapists (MFT) can only work with relational issues. It became apparent that California is very different, and that we would not be able to use the national written examination for licensure. Ms. Mehl answered many licensing questions from representatives from other states regarding supervision and shared a lot of information and comparisons about our occupational analyses. Due to this exchange of information, it appears that other states may begin accepting California's license for licensure. Ms. Mehl stressed the importance of attending these types of conferences, which are usually out of state. There are also Licensed Professional Counselors (LPC) in almost every other state, whose scope of practice is often different than the MFT. However, the standards from state to state are not the same. Ms. Mehl does not expect a push for LPCs to be licensed in California.

## **6. Proposed Amendments to Business and Professions Code Section 4980.45 Regarding the Number of Interns Employed in a Professional Corporation**

Ms. Mehl explained that the reason for this proposed change is that the intent of the law is "professional" corporation rather than "any" corporation. The Board was concerned that this change would create openings for other types of corporations. They requested this item be brought back to the Licensing Committee with background and examples of whom this would apply to, and what the change would mean.

## **7. 2003 Chaptered Legislation that Impacts the Board and Status of Pending Legislation**

Dr. Burdick explained that AB 956 expands the definition of educator. He also explained that it should lead to more Licensed Educational Psychologists (LEP) due to increased funding. Ms. Mehl feels it is important to update the LEP scope of practice this next year due to the rise of unlicensed “educational therapists.”

Board members complimented the format of the legislation section of materials prepared by Board staff. Ms. Mehl welcomed any ideas for changes.

## **8. Approve/Not Approve Committee Recommendations**

### **a. Consumer Services/Consumer Protection Committee**

Dr. Stein informed the Board that the Committee approved their previous meeting minutes, discussed enforcement issues and Division of Investigation shortages. The Committee asked that Board staff research using citation and fine more often and to bring the policy regarding disclosing citation and fine decisions to the public back to the meeting in February.

### **b. Licensing Committee**

Ms. Ulevitch provided the board with an overview of the Committee meeting. The Committee approved their minutes, discussed and took action on the proposed amendments to Section 1887(a) regarding definitions of a course, and discussed issues regarding carrying over continuing education credit to another renewal cycle. The Committee asked that Board staff research other board processes regarding carrying over continuing education and report back at the February meeting.

CATHERINE KAY MOVED, MARK BURDICK SECONDED, AND THE BOARD CONCURRED TO INITIATE THE REGULATORY PROCESS WITH THIS CHANGE TO 1887(a).

### **c. Ad Hoc Disciplinary Guidelines Committee**

Ms. Kay indicated that the Committee had approved their minutes and discussed holding a meeting in January to review all of the minimum and maximum penalties located in the Disciplinary Guidelines to determine their appropriateness. The Committee will then review the next round of amendments to the document at the February meeting.

### **d. Examination Committee**

The Committee briefly discussed the issue of collecting race/ethnicity data from applicant. The subject will be brought back to the February meeting before the full board. Ms. Mehl indicated that she would bring information regarding the legal barriers of collection to the February meeting.

## **9. Public Comment for Items Not on the Agenda**

The board did not receive any public comments from the public.

The meeting adjourned at approximately 10:00 a.m.